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• NJ & NY Bars  
◦ NJ & PA Bars  
□ NJ, NY & CT Bars  
♦ NJ & FL Bars

**REPLY TO CHATHAM**

OUR FILE NO. 39324.00-1

May 26, 2011

**Via Facsimile (6 pages) & E-Filing to All Parties**

Honorable Michael A. Shipp, U.S.M.J.  
*United States District Court*  
*For the District of New Jersey*  
Martin Luther King Building  
50 Walnut Street Newark, NJ 07101-0999

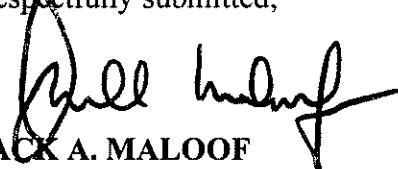
**RE: JOY MASON ET AL VS. JOHN DINEEN ET AL**  
Docket No.: 2:11-CV-1176-SRC

Dear Judge Shipp:

Pursuant to my secretary's telephone conversation with Chrishana, attached please find plaintiff's correspondence dated May 13, 2011 and co-defendant's correspondence dated May 10, 2011.

Thank you.

Respectfully submitted,



JACK A. MALOOF

JAM/kb

cc: Adam B. Sattler, Esq.  
Thomas W. Matthews, Esq.

39324

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May 13, 2011

**Via Fax ONLY to (973) 645-4412**

Hon. Michael A. Shipp  
United States Magistrate Judge  
District of New Jersey  
United States District Court  
Newark, NJ 07101

Re: Mason v. Dineen, et. al.  
Case # 11-CV-01176

Dear Magistrate Judge Shipp:

Please accept this correspondence in response to the letter received from Thomas Matthews, Esq. related to the above matter. It was agreed by counsel that Mr. Matthews would put his position in writing to the Court after our joint telephone conference earlier this week.

This office represents the Plaintiff, Joy Mason in the above matter. Ms. Mason is the Administratrix of the Estate of her late son Germine Forrester. Germine was killed July 15, 2010 when he was struck by the vehicle being driven by John Dineen and owned by his uncle, Robert Dineen (both are defendants in this matter). The last defendant in this matter is May Ryan LLC the bar/restaurant where it is alleged that the staff continued to serve Mr. Dineen alcoholic beverages in violation of the New Jersey Dram Shop Act.

Defendant John Dineen is, in fact, facing criminal charges stemming from this incident. It is my understanding that he has been indicted by a Hudson County grand jury on multiple charges.

Defendants Robert Dineen and May Ryan LLC are not facing any collateral criminal consequences and have no right to apply to this Court for a stay of the instant proceedings. Defendant John Dineen is free to speak to Mr. Matthews about the incident without fear of abridging any of his constitutional rights and he may assist his attorney in the discovery process as same relates to himself, the incident, as well as the other defendants. Document discovery may proceed as usual. In fact, the only discovery that may be impeded at this time is Robert Dineen's right not to incriminate himself if asked to testify under oath at a deposition.

Hon. Michael A. Shipp, USMJ

May 13, 2011

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**Based upon the foregoing, Plaintiff requests that discovery be allowed to proceed in this matter with any limitations as same relates to defendant John Dineen, to be set forth by the Court. As the initial conference is now approximately only 2 weeks away, I propose that all counsel appear on that date to address the issues raised herein.**

**Very truly yours,**

**EBANKS & SATTLER LLP**



**ADAM B. SATTLER**

**ABS:lk**

**cc: Jack F. Maloof, Esq. - via facsimile 973-635-2270  
Thomas W. Matthew, Esq. via facsimile 973-364-1073**

# FAX COVER SHEET

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|---------------------------------|--------------------------------------|
| TO: Hon. Michael A. Shipp, USMS | FROM: Adam Sattner (AS1334)          |
| ATTN:                           | DATE: 5-13-11                        |
| FAX NO: 973-645-4412            | TEL. NO.: 212-766-4411               |
| Re: Major V. Dineen et al.      | No. PAGES (Incl. Cover sheet): 3 pgs |

11-CV-01176

URGENT

For Review

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## COMMENTS:

Please see letter to follow.

CC: T. Matthews, Esq. (Via fax)  
J. Mauro, Esq.

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May 10, 2011

Honorable Michael A. Shipp, U.S.M.J.  
District of New Jersey  
United States District Court  
50 Walnut Street  
Newark, New Jersey 07101

RE: Mason vs. Dineen, et al.  
Docket No. 2:11-CV-1176-SRC  
Our File No. ND 9056

Dear Magistrate Judge Shipp:

As you are aware from previous correspondence, I represent the defendants, Dineen, in the above matter. This case was recently transferred to the Federal District Court for the District of New Jersey from New York. By way of background this suit arises out of a motor vehicle accident which occurred on July 15, 2010. It is alleged that the decedent, Germine Forrester was killed as a result of the negligent operation of a motor vehicle by John Dineen. The Complaint alleges that Mr. Dineen was intoxicated at the time of the accident, and that he was served alcoholic beverages by the defendant, May Ryan, LLC, doing business as Michael Anthony's Restaurant.

You have scheduled this matter for a scheduling conference on June 1, 2011. You have provided counsel with documents in order to enable parties to prepare a proposed discovery plan to be executed by Your Honor at the conference. The attorneys conducted a telephone conference on May 9, 2011 to discuss the proposed Scheduling Order. As a result of that conference I am writing to you to discuss some issues with respect to the case, and to ask Your Honor to schedule a conference to address these issues, prior to the scheduling conference.

My client faces criminal charges as a result of the motor vehicle accident. It is my understanding that a Grand Jury has not yet acted upon the charges that have been filed against him. It is

Honorable Michael A. Shipp, U.S.M.J.  
May 10, 2011  
Page 2

my understanding that the Grand Jury will meet within the next several weeks to address these issues. Based upon that I have been advised by my client's criminal attorney that my client cannot assist me in providing discovery with respect to the civil proceedings, and has requested that I seek a stay of any discovery from Mr. Dineen while the criminal charges are pending against him. Obviously, Mr. Dineen has certain constitutional rights which he does not wish to waive by providing discovery in this civil suit.

Counsel for the plaintiff is obviously anxious to proceed with at least limited discovery and feels that some of the defendants can provide discovery to him. The defense attorneys believe that proceeding in that manner, with piecemeal discovery would not be beneficial to the interests of any of the parties. It is our belief that although some discovery may be able to take place, in the end the significant discovery will not be able to be done until Mr. Dineen can fully participate in the defense of the claims asserted against him.

Counsel for the plaintiff contacted your chambers on May 9 to advise you of these issues. We were directed to submit to you in writing an outline of the issues, and to request that a conference be scheduled to address these issues, prior to the scheduling conference. Accordingly, after you have had an opportunity to review this correspondence please advise counsel if you wish to conduct either a telephone conference or an in person conference to discuss these issues prior to the scheduling conference. Specifically, counsel would like to know whether Your Honor is inclined to stay all proceedings pending the resolution of the criminal claims against Mr. Dineen, or prefer to stay only the discovery with respect to John Dineen, the alleged operator of the vehicle involved in the accident.

Respectfully submitted,

THOMAS W. MATTHEWS

TWM/oac

cc: Adam B. Sattler, Esq.  
Jack A. Maloof, Esq.